

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HILDA KREUZER,

Plaintiff,

-against-

THE STOP & SHOP SUPERMARKET COMPANY LLC.,

Defendant.

-----X

PETITION FOR  
REMOVAL

Jury Trial Demanded

Docket No.:  
08 CV 02046

ECF CASE

Defendant, THE STOP & SHOP SUPERMARKET COMPANY LLC., petitioner for the removal of this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court, Southern District of New York, respectfully shows this Honorable Court:

**FIRST:** Plaintiff commenced an action against the above named Defendant in a Civil Action brought against it in the Supreme Court of the State of New York, County of Bronx, entitled:

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

-----X  
**HILDA KREUZER,**

**Plaintiff,**

**Index No. 300933/08**

**-against-**

**THE STOP & SHOP SUPERMARKET COMPANY LLC.,**

**Defendants.**

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A copy of the Summons and Complaint in this action is annexed hereto as **Exhibit "A"** and made a part hereof and upon information and belief, constitute all process, pleadings and orders allegedly served upon any party in this action.

**SECOND:** Upon information and belief, Defendant The Stop & Shop Supermarket Company LLC., was served with process on or around February 20, 2008 through CSC Corp.

**THIRD:** This is an action of civil nature in which the District Courts of the United States have been given original jurisdiction in that there exists diversity of citizenship between the plaintiff and the defendant and the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs. Plaintiff's Complaint does not specify the amount of damages because under NY State CPLR Section 3017(c), a plaintiff in a personal injury matter filed in the Supreme Court of the State of New York is not permitted to assert the damages amount in the Complaint. Before submitting these removal papers, your Affirmant spoke with plaintiff's counsel who advised that his client sustained a fractured hip. Plaintiff's counsel further advised that his client was treated at Montefiore Hospital and then treated in a rehabilitation facility for tens days as an inpatient. These injuries, if proven, could result in a jury award in excess of \$75,000. Accordingly, there exists original jurisdiction in the District Courts of the United States as provided in 28 U.S.C. Section 1332.

**FOURTH:** Under the provisions of 28 U.S.C. Section 1441, the right exists to remove this Civil Action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, which embraces the place where this action is pending.

**FIFTH:** This action involves a controversy between citizens of different states. The plaintiff is now and was at commencement of the action a citizen and resident of the State of New York. The Stop & Shop Supermarket Company LLC is a foreign limited liability company at all times having its principal place of business at 1385 Hancock Street, Quincy, Massachusetts and having been registered as a limited liability company in the State of Delaware.

**SIXTH:** In accordance with the requirements of 28 U.S.C. Section 1446 this Petition for Removal is filed within thirty (30) days after the service of the Summons and Complaint on the defendant.

**SEVENTH:** Pursuant to the provisions of 28 U.S.C. Section 1446, defendant attaches herewith and incorporates herein by reference copies of the following items served in this action:

- a) Plaintiff's Summons and Complaint against defendant, for damages filed in the Supreme Court of the State of New York, County of Bronx, bearing index number 300933/08 marked as **Exhibit "A"**.

**EIGHTH:** By reason of the foregoing, defendant desires and is entitled to have this action removed from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, such being the District where said suit is pending.

**NINTH:** Concurrent with the filing and service of this Petition for Removal, Defendant is serving this Petition for Removal upon the plaintiff's attorney, and filing a copy of this Petition for Removal with the clerk of the Court for the Supreme Court of the State of New York, County of Bronx.

**WHEREFORE**, defendants pray that the above entitled action now pending against it in the Supreme Court of the State of New York, County of Bronx, be removed therefrom that Court.

Dated: New York, New York  
February 26, 2008

By: /s/  
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Ahmuty, Demers & McManus, Esqs.  
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Our File No.: SAS 0212N8 BJD